



Chairperson Roberts called the regular meeting to order at 6:30 p.m. Six commissioners were present. Commissioner Dearmin was absent without prior notice. Glen Black, Director of Community Development, Jim Hatheway, Director of Public Works, and James Shoopman, City Planner also attended.

### **Changes to the Agenda**

There were none.

### **Minutes**

Commissioner Bell motioned to accept the minutes as submitted by the secretary from the last Planning Commission Regular Meeting that was held on February 2<sup>nd</sup>, 2009. Commissioner Raley seconded the motion. All were in favor and the motion carried.

### **Citizen Comments**

There were none.

### **Jan & Andy Papas Variance Request ~ located at 361 Palmer Street**

Chairperson Roberts opened the public hearing and requested staff's report and recommendations.

The following was presented by James Shoopman, City Planner:

#### ***Request:***

*The applicant is requesting:*

- 1. A variance from the setback requirements of 17.04.220 of the City's Municipal Code, which requires a 15' setback from 4<sup>th</sup> St., to enlarge the south arm of the existing building.*
- 2. To encroach the proposed south arm addition 12" into the City Street right-of-way.*  
(see site plan and applicant's narrative)

#### ***Criteria for Approval of a Variance:***

*According to section 17.04.260 of the City Municipal Code, the Planning Commission may approve a variance from the provisions of this chapter (17.04), other than the uses specified for any district or restrictions on the location of factory built housing, only if it determines following review pursuant to Section 17.04.290 that the **following** criteria are substantially met:*

- 1. The variance will not adversely affect the public health, safety and welfare.*
- 2. Unusual physical circumstances exist, such as unusual lot size or shape, topography, or other physical conditions peculiar to the affected property which make it unfeasible to develop or use the property in conformity with the provisions of this Chapter in question.*
- 3. The unusual circumstances have not been created as a result of the action or inaction of the applicants, other parties in interest with the applicant, or their predecessors in interest.*
- 4. The variance requested is the minimum variance that will afford relief and allow for reasonable use of the property.*
- 5. The variance will not result in development incompatible with other property or buildings in the area, and will not affect or impair the value or use or development of other property.*

**Jan & Andy Papas Variance Request ~ located at 361 Palmer Street continued...**

*The Planning Commission may impose conditions of approval as necessary to insure that the above criteria are met including limitations on the effective term of the variance.*

***Discussion***

1. *As of March 2<sup>nd</sup>, 2009 (9) petitions with (10) signatures were received approving of the request.*

***Staff Recommendations:***

*Staff recommends that the requested variance be denied. The requested variance does not substantially meet the variance criteria of the City Code as follows:*

1. *Allowing variances of this nature adversely affects the public welfare by placing a burden on the City when constructing and maintaining public infrastructure (see memo from Public Works and Utilities Directors).*
2. *Unusual physical circumstances do not exist on the site. The existing lot size is approximately 8200 square feet, larger than the 6000 square feet minimum requirement. The lot has a rectangular shape of 82' x 100'. Topography is level and unobstructed by hills, canals, etc. There are no physical conditions peculiar to the affected property which would make it unfeasible to develop or use the property in conformity with the provisions of the City Code.*
3. *The property has been and can continue to be reasonably used as it exists without a variance.*

***Example Motion:***

*I move that Planning Commission **approve/deny** the applicant's request for:*

1. *A variance from the setback requirements of 17.04.220 of the City's Municipal Code, which requires a 15' setback from 4<sup>th</sup> St., to enlarge the south arm of the existing building.*
2. *To encroach the proposed south arm addition 12" into the City Street right-of-way.*

Mr. Shoopman then presented a memo submitted by Jim Hatheway, Director of Public Works and Fay Mathews, Director of Utilities. He summarized that both City departments do not support the variance request. The memo presented numerous adversities that would be imposed upon the City by disregarding the required setbacks.

Chairperson Roberts requested the applicant's presentation.

Aaron Clay, representing the applicant, handed out four photos to the Commission and staff. He handed out 3 copies of the proposed plans for building remodel that were reviewed by the Commissioners. He stated that the applicant's basic premise is that this variance will not impose any adverse impact on the City. He stated that it could be an enhancement to the City. He explained further details of the building remodel and design. He reviewed the sidewalk dimensions and the character of the neighborhood.

There was discussion about parking space requirements.

Mr. Shoopman stated that the current parking space requirements are at 5 spaces, and that the proposed addition would require 6 spaces and paving.

There was discussion about prior uses of the building.

Alternate remodel options that would not impose on the setbacks or variance requirements were also discussed.

Bryan Kissner, Cedaredge, stated that the addition being located at the south wing would be the best way to make the street face uniform. He stated that if they were to move it back with the rectangular design it would encroach upon the alley. He mentioned further details of the remodel building plans that would be proposed.

**Jan & Andy Papas Variance Request ~ located at 361 Palmer Street continued...**

Commissioner Raley commented that alternatives should be sought that do affect the sidewalk.

Commissioner Bell asked staff if parking requirements that were previously mentioned were in the consideration of the employees or the customers.

Mr. Shoopman clarified that parking requirements are based on the use and square footage of the building.

Commissioner Jahn suggested that possible further negotiations with the City that addressed maintenance concerns, may produce an agreed upon alternative.

There was discussion about parking requirements for office and medical office uses.

Mr. Black explained that parking is a small issue. He stated that the majority of everything that currently exists was grandfathered and does not currently comply with the City Code.

There was discussion about neighboring public parking lots.

Mr. Shoopman emphasized that this particular variance request does not meet City variance requirements.

Commissioner Bell also suggested that alternatives should be sought.

Chairperson Roberts stated that he did not believe this request meets all 5 of the variance criteria in order for Planning Commission to authorize a variance.

Commissioner Oelke stated that the request does not meet items 2 or 4 of the variance criteria. She strongly emphasized that it does not meet variance criteria 4.

Chairperson Roberts requested public comment.

Sheryl Hieber, 255 South West 8<sup>th</sup> Avenue, Cedaredge, stated that the little wing is smaller than what had been described earlier and is an awkward shape. She stated that they will need more footage in order to use it for their practice, and that they had looked into some of the alternatives mentioned.

There was discussion about a proposed roof design.

John Freeman, 21935 Oatman Road, Eckert, stated that the building is currently vacant and that it is not currently being used as office space. He stated that he did not believe that there is a high demand for the space considering that it has been vacant for approximately 6 months.

There was discussion about property lines in relation to City streets and sidewalks.

There was discussion about the existing building may not have been zoned OR at the time it was built to the property line.

Chairperson Roberts closed the public hearing and requested commissioner comment.

**Jan & Andy Papas Variance Request ~ located at 361 Palmer Street continued...**

Commissioner Raley stated that he understands what is being proposed and the reasoning behind it. He stated that unfortunately the request does not satisfy the variance criteria that Planning Commission has to consider. Commissioner Jahn and Oelke agreed with Commissioner Raley's comments.

Commissioner Burnett stated that he questioned the setback requirements for an addition of an existing building not meeting the requirements. He stated that consideration should be given towards a business that would be good for the community that could utilize this vacant space.

Chairperson Roberts stated that many years ago the setback requirements were infringed upon, and he does not believe that should continue to happen. He stated that this particular request does not meet the criteria required for Planning Commission to approve this variance.

Commissioner Oelke motioned that Planning Commission deny the Jan & Andy Papas Variance Request located at 361 Palmer Street because the request does not substantially meet the 5 variance criteria of the City Municipal Code. Commissioner Raley seconded the motion. All were in favor with the exception of Commissioner Burnett who voted nay, and the motioned carried.

**Amended Plat Lot B Habitat PUD ~ located at 338 Riley Lane**

Chairperson Roberts requested staff's report and recommendations.

The following was presented by James Shoopman, City Planner:

***Request***

*The applicant is requesting that Planning Commission recommend approval of the Amended Plat of Lot B of the Habitat PUD, which proposes to reduce the south setback line of lot B from 10.5' to 5'.*

*The applicant intends to build a carport within this area.*

*The property's zone district is R-2, which "is intended to provide an area which is suitable for single family homes and duplexes". The minimum side setback allowed within the R-2 zone district is 5'.*

*The Habitat PUD plat was approved in 1995. The plat depicts building envelopes rather than setbacks. Amendments to PUD subdivision plats for the benefit of third parties require Planning Commission and City Council approval (City Code, 16.04.120).*

***Staff Recommendations***

*Staff recommends approval of this request for the following reasons:*

- 1. The R-2 zone district allows 5' side setbacks.*
- 2. No utilities or easements appear to be within this area (a utility locate was performed). Staff could not find any discussion as to why the building envelope established a 10.5' setback from the south line of the parcel.*

***Example Motion***

*I move that Planning Commission recommend **approval/disapproval** of the Amended Plat of Lot B of Habitat PUD contingent upon the following: Planning Commission recommendations (if any).*

Chairperson Roberts requested the applicant's presentation.

**Amended Plat Lot B Habitat PUD ~ located at 338 Riley Lane continued...**

Debra Werner, 338 Riley Lane, explained that she intended to replace a 10x20 temporary carport that had been torn by weather conditions and looked unpleasing to the eye, with a 12x20 carport that is movable. A building permit is required for structures over 200 square feet. The permit was not approved because it would encroach within the 10.5 setback on the current PUD plat. She concluded that she could continue with the permit process if the setbacks on the current plat could be set to 5' as the current R-2 zone district allows.

Commissioner Bell asked if there are any covenants for the PUD.

Mr. Shoopman replied that yes, the PUD has covenants, which did not appear to prevent the proposed carport.

Commissioner Bell asked if adjacent property owners had any comments.

Mr. Shoopman replied that he had not received comments from adjacent property owners and all requirements for the replat procedure had been met.

Chairperson Roberts stated that upon reviewing the 1995 City Council Meeting Minutes he was unable to find any reasoning as to why the 10 ½ ft set back had been put on the original plat.

Chairperson Roberts requested public comment.

There were none.

Chairperson Roberts requested commissioner comment.

There were none.

Commissioner Jahn motioned that Planning Commission recommend approval to City Council of the Amended Plat of Lot B of Habitat PUD. Commissioner Bell seconded the motion. All were in favor and the motion carried.

**City of Delta Rezone Request ~ located at 1397 East 7<sup>th</sup> Street**

Chairperson Roberts opened the public hearing and requested staff's report and recommendations.

The following was presented by James Shoopman, City Planner:

***Request:***

*The City Manger is requesting that the zone district of this 7.88 acre parcel be changed from A-1 to R-2 (see attached letter). The R-2 zone district "is intended to provide an area which is suitable for single family homes and duplexes". Lots for single family homes must be at least 6000 square feet. Lots for duplexes must be at least 9000 square feet (4500 per unit).*

***Criteria for Rezoning:***

*According to section 17.04.270 of the City Municipal Code, amendments to the Zoning Map involving any change in the boundaries of an existing district or changing the district designation of an area shall be allowed **only** upon findings as follows:*

**City of Delta Rezone Request ~ located at 1397 East 7<sup>th</sup> Street continued...*****Criteria for Rezoning continued:***

1. *The amendment is not adverse to the public health, safety, and welfare; **and***
2. *a. The amendment is in substantial conformity with the Master Plan; **or***
  - b. The existing zoning is erroneous; **or***
  - c. Conditions in the area affected or adjacent areas have changed materially since the area was last zoned.*

***Petitions:***

*As of March 2<sup>nd</sup>, 2009 (1) petition was received not in favor of request.*

***Staff Recommendations:***

*Staff recommends approval of the requested zone change based on the following:*

1. *The amendment appears to not be adverse to the public health safety, and welfare. The allowed uses and density of the R-2 zone district should be compatible with existing uses and densities in the area.*
2. *The requested amendment is in substantial conformity with the Future Land Use map of the Comprehensive Plan (aka Master Plan), which supports growth in the area to become medium density residential (R-1, R-1A, R-2).*

***Example Motion:***

1. *I move that Planning Commission **recommend/not recommend** approval to City Council of the request to change the zone district of parcel number 3455-191-45-001 from A-1 to R-2.*

Commissioner Oelke asked staff to identify various zone districts surrounding the area.

Staff identified the surrounding zone districts and their allowed uses.

Chairperson Roberts asked if the commission had any questions for staff, as the applicant.

There were none.

Chairperson Roberts requested public comment.

Robert E. Miller, 1250 East 5<sup>th</sup> Street, stated that he was concerned about property he owned behind the above mentioned parcel. Staff's report appeared to have a proposed road running through it. He exclaimed that he knew nothing about this proposed road and that he is entirely opposed to any idea of the sort.

Staff explained that there is no road proposed to cross Mr. Miller's property.

Paul Crow, 755 Pioneer Road, stated that the letter he received only stated a zoning change which he felt was insufficient information. He stated that he thinks more of his neighbors would have showed up if they had known what exactly was being proposed. He stated that this rezone could allow 50 families to inhabit that one lot. He stated that a higher density would create a significant increase in the number of people and the volume of traffic in the area. He would like to see the zoning stay as it is, because he finds the blend of agricultural and residential uses valuable. He mentioned that if the current zoning was retained, surrounding property values would be maintained. Rezoning the property could cause to depreciate. He stated that he is firmly opposed to the rezoning. He stated that he enjoys the natural wildlife.

Linda Geisen, 1275 7<sup>th</sup> Street, stated that she is opposed to the rezone and the density that would be allowed. She mentioned concerns of traffic and safety. She mentioned that the sign posted on the property was about the Devil's Thumb Golf Course.



**City of Delta Rezone Request ~ located at 1397 East 7<sup>th</sup> Street continued...**

Staff explained that the sign had flipped up due to the wind and was put back into place.

There was more discussion about density.

Mr. Shoopman shared Comp Plan references and presented the Future Land Use Map.

Chairperson Roberts closed the public hearing and requested commissioner comment.

Commissioner Bell stated that he preferred to abstain from commenting as he felt that his property was too close to the parcel of the request.

Commissioner Raley chose not to abstain even though he was in a similar position. He explained stating that he had no monetary gain from the request and that his property is not within 100 feet of the parcel.

Commissioner Oelke motioned that Planning Commission recommend approval to City Council of the request to change the zone district of parcel number 3455-191-45-001 from A-1 to R-2. Commissioner Jahn seconded the motion. All were in favor, with the exception of Commissioner Bell who abstained from voting, and the motion carried.

**Commissioner Comments**

Commissioner Jahn stated that he had concern about density fluctuations.

Commissioner Burnett stated that he feels that 100 homes are proposed within Cunningham orchards. He stated that he does not think 6,000 square feet is not enough to build on for many contractors.

Commissioner Raley stated that he has mixed emotions about building in that area. He stated that much has changed up on Pioneer Road and that we will have to go with change as it happens.

Commissioner Bell expressed his thanks for allowing him to serve and receive experience. He stated that he will not be reapplying. He stated that his main interest in being on Planning Commission was updating the Comprehensive Plan and hopes it will not be put on the shelf.

**Staff Comments**

Mr. Black explained that staff will be needing a head count for the combined dinner.

Mr. Black reminded the Commission of the combined dinner with City Council coming up March 12<sup>th</sup> at 6:30 p.m. being held at the Devil's Thumb Golf Course. He reminded that everyone planning to attend should RSVP as soon as possible.

Mr. Black stated that connection of the Pioneer Road is a major factor of the Comprehensive Plan that was involved in the last agenda item.



**Staff Comments continued...**

Commissioner Burnett asked if there is a current a time table for the Pioneer Road Connection Project.

Mr. Black replied that there is money in the budget for the project this year. He stated that some of staff is pushing to get it started as early as next year.

Mr. Black thanked Commissioner Bell for his hard work and dedication while serving on the Planning Commission. He thanked all of the Commission for their volunteer work.

Meeting adjourned at 7:50 p.m.

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Lee A. Barber, Executive Secretary  
Community Development